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INTERNAL AFFAIRS BUREAU

INVESTIGATIVE SUMMARY

IV 2413066

SUBJECT: **TONY GUERRERO**
DEPUTY SHERIFF, #[redacted]

DATES OF INCIDENT: **AUGUST 4 AND 25, 2014**

ALLEGATIONS:

It is alleged that Deputy Tony Guerrero stole auto parts from vehicles, which were stored or impounded at the [redacted] business.

Prior to the start of the Internal Affairs Bureau (IAB) investigation, Internal Criminal Investigations Bureau (ICIB) investigators conducted a criminal investigation and compiled their findings in a casebook **[EXHIBIT A]**. The ICIB investigation focused on four suspects, Subject Guerrero, Deputies [redacted] and [redacted], and Parking Control Officer (PCO) [redacted]. The administrative investigation was divided into four separate cases. Refer to the other three administrative cases for further; Deputy [redacted] ([redacted]), Deputy [redacted] ([redacted]), and PCO [redacted] ([redacted]).

On August 6, 2016, the Los Angeles County District Attorney filed two charges of petty theft, 484(a) PC and 490.2 PC, against Subject Guerrero **[EXHIBIT A, pages 440 to 442]**. On August 30, 2016, the case against Subject Guerrero was dismissed because of Witness [redacted]'s unavailability to testify **[EXHIBIT B]**.

SYNOPSIS:

Witness [redacted], the [redacted] of the [redacted] business, located at [redacted], employed a tow truck driver, Witness [redacted]. [redacted] was contracted with Century Sheriff's Station as one of the towing businesses to be contacted when deputies needed towing services for vehicles they impounded or stored during the course of their duties.

On July 12, 2014, Subject Guerrero visited [redacted] for the purpose of purchasing a vehicle at an auction held at the location. According to Witness [redacted], he saw Subject Guerrero and Witness [redacted] walking through the tow yard on that date. Twenty-five minutes later, Witness [redacted] saw a truck (1998 Toyota pickup, License #[redacted]), which belonged to his business, being driven out of

the tow yard. He confronted Witness [redacted] about the truck. Witness [redacted] believed Witness [redacted] told him he (Witness [redacted]) gave the truck to the deputy, but would "make it up" to Witness [redacted].

Subject Guerrero stated he purchased the aforementioned Toyota pickup truck for $300 on the indicated date **[EXHIBIT A, page 298]**. He could not remember if Witness [redacted] arranged the sale. Subject Guerrero described the truck as being a "junker," and needed to be "put back together," as it needed work done to the ignition, starter, battery, and brakes. However, Witness [redacted] stated he estimated the truck would have sold at auction for between $1000 and $1200 and was in fair condition.

Witness [redacted] claimed the pickup truck Subject Guerrero obtained from [redacted] was missing several parts (antenna, molding, jack controls, etc). Witness [redacted] alleged Subject Guerrero took replacement parts for his pickup truck from similar vehicles Subject Guerrero stored or impounded while on patrol duty **[EXHIBIT A, page 115]**.

Federal Bureau of Investigation (FBI) agents used Witness [redacted] as an unpaid, volunteer undercover informant. Witness [redacted] utilized an audio recording device, provided to him by the FBI, to surreptitiously record conversations with Subject Guerrero **[EXHIBIT C]**.

On August 4, 2014, Subject Guerrero, who was a field training officer at the time, worked on the Early Morning shift at Century Station with his trainee, Deputy [redacted] **[EXHIBIT D]**. According to their Deputy Daily Work Sheet (DDWS), Subject Guerrero and Witness [redacted] stored a 1995 Toyota pickup truck between 0245 hours and 0308 hours **[EXHIBIT E]**. Witness [redacted] wrote the CHP-180 report **[EXHIBIT F]**. The deputies stored the vehicle because it had been parked on a public roadway with registration expired over six months. Witness [redacted] was summoned to the scene, [redacted] 125th Street, Los Angeles, and he was responsible for towing the truck to [redacted].

Witness [redacted] utilized a recording device to record the following **[EXHIBIT C]**: "August 4th, 2:53 a.m. Picking up a call with Officer Guerrero, Tony Guerrero." At 1 minute and 56 seconds into the recording, Witness [redacted] stated, "You do remind me of the movie 'Gone in 60 Seconds.'" At 9 minutes and 55 seconds into the recording, Witness [redacted] asked, "What's that?" in English and then the same question in Spanish. Subject Guerrero replied in Spanish, "It's the window molding I was missing." At 14 minutes and 41 seconds into the recording, Witness [redacted] asked, "You gonna stop by later?" in English and Spanish. Subject Guerrero replied, "No, all I need is the other side of this." At 15 minutes into the recording, Witness [redacted] stated, "He took some parts from the recovered stolen... from the vehicle we just picked up for expired registration. Took some parts and put them in the back of the bed, couple weather strippings, the little plastic that goes on the fuel door, and he's gonna go to the yard and pick them up later and see what else he's gonna take off."

The abovementioned audio recording was transcribed **[EXHIBIT A, pages 209 to 211]**. Subject Guerrero, who is a [redacted] **[EXHIBIT G]**, listened to the indicated audio recording in his second IAB interview. He identified the various voices heard on the audio recording as stated above, but did not remember the conversation.

Witness [redacted] stated that when he arrived on scene to tow the indicated pickup truck, he saw Subject Guerrero removing some weather stripping from the truck **[EXHIBIT A, page 116 and 117]**.

Subject Guerrero denied taking any parts off the indicated Toyota pickup truck **(refer to Subject Guerrero's first IAB interview transcript, pages 8 to 11)**. Witness [redacted] could not remember if he saw Subject Guerrero remove any parts from that pickup truck.

Subject Guerrero stated Witness [redacted] procured the indicated window molding from a junk pile or stock pile in the [redacted] yard. Witness [redacted] sold him the lower molding from the driver's side window of a Toyota pickup truck, but Subject Guerrero could not remember how much he paid for it. According to Subject Guerrero, Witness [redacted] also sold him an automobile jack, which Witness [redacted] told him had also come from a scrap pile in the tow yard. Subject Guerrero stated he paid $5 or $10 for the jack. Subject Guerrero was not provided with a receipt for any of the items allegedly sold to him by Witness [redacted].

The owner of the stored pickup truck, [redacted], stated in his ICIB interview that his pickup truck had been towed in the early morning hours. When he went to the tow yard the next day to pick up his vehicle, he noted that the locking mechanism for his fuel door was missing, but he did not notice any other missing parts. ICIB investigators inspected Witness [redacted] truck and noted the driver's door window molding and locking mechanism for the fuel door were missing **[EXHIBIT A, pages 301 to 306]**.

On August 5, 2014, Subject Guerrero worked on the Early Morning shift at Century Station with Witness Tran **[EXHIBIT H]**. Witness [redacted] utilized a recording device to record the following **[EXHIBIT C]**: "This is the source. 3:30 in the morning August 5th, going to pick up a vehicle with Deputy Guerr--, Tony Guerrero." At 18 minutes and 17 seconds into the audio recording, Witness [redacted] asked, "Did you get that bar?" in Spanish and English and then, "The hood bar," and, "You didn't get my message?" Subject Guerrero replied, "Yeah I need that because my shit don't have it dude." Witness [redacted] stated, "Just stop by the yard later." Subject Guerrero replied, "Is it hard to take off?"

The abovementioned audio recording was transcribed **[EXHIBIT A, page 59]**. Subject Guerrero's DDWS showed he was at [redacted] 125th Street, in Los Angeles, between 0329 hours and 0350 hours on the indicated date **[EXHIBIT I]**. Subject Guerrero listened to

parts of the indicated audio recording in his second IAB interview. He identified the two voices heard on the audio recording as stated above, but did not remember the conversation.

Subject Guerrero recalled a conversation from the past in which he told Witness [redacted] he needed a hood stand for his truck. Witness [redacted] subsequently sold him a piece of "round stock" for $5 or $10 dollars. According to Subject Guerrero, Witness [redacted] told him he got the part from a junk or stock pile in the [redacted] yard. Witness [redacted] did not provide him with a receipt. Subject Guerrero "torched" the piece of round stock and "made it work."

Witness [redacted] stated in his IAB interview that the only junk or scrap pile in his tow yard, extant in August 2014, would have been automotive parts from "chop shops." He stored the automotive parts as evidence either in the tow yard or in a warehouse in the tow yard, depending on if the parts were held for prints or not. Eventually, insurance company agents would pick up the parts or they would ask him to dispose of the parts. Witness [redacted] stated he never authorized Witness [redacted] to sell scrapped or junk items to Subject Guerrero. Witness [redacted] believed Witness [redacted] gave automotive parts to deputies, although he was not "100 percent sure," because other tow truck drivers, specifically "[redacted]" (Witness [redacted]) had told him.

Witness [redacted], who worked as a tow truck driver for [redacted], stated he did not tell Witness [redacted] that Witness [redacted] gave or sold automotive parts to deputies. Witness [redacted] stated there were no junk or scrap piles in the [redacted] yard. Vehicles that were to be junked or scrapped were sold in their entirety to scrap yards, whose representatives visited [redacted] and took the entire vehicle away with them.

On August 25, 2014, Subject Guerrero worked on the Early Morning shift at Century Station with Witness [redacted] **[EXHIBIT J]**. Witness [redacted] utilized a recording device to record the following **[EXHIBIT C]**: "August 25th, 4:42 a.m. Guerrero's here at the yard taking parts off a Toyota." At 7 minutes and 24 seconds into the recording, Witness [redacted] remarked, "Oh, you know what, you forgot the hood thing." Subject Guerrero stated, "Let's see if we can take it off." Witness [redacted] asked, "What's that called, a hood stand, or what the fuck?" A male voice responded, "Yeah." At 9 minutes and 56 seconds into the recording, a male voice, possibly that of Subject Guerrero, exclaimed, "It's like 40 dollars for this fucking thing." Witness [redacted] responded, "40 bucks for that? Jesus, expensive!" At 11 minutes and 42 seconds into the recording, Witness [redacted] stated, "It's 4:53 on Monday, August 25th. He took the jack stand. He took the jack studs. And he took the hood stand and the right door molding off of the Toyota we recovered previously."

The abovementioned audio recording was transcribed **[EXHIBIT A, pages 212 to 214]**. Subject Guerrero listened to parts of the indicated audio recording in his second IAB interview. He identified the two voices heard on the audio recording as stated above, but did not remember the conversation.

Global Positioning Satellite (GPS) data from Subject Guerrero's patrol car on August 25, 2014, showed his vehicle was stopped on [redacted] Street between Juniper Street and Alameda Street (the location of [redacted] from 0437 hours to 0453 hours **[EXHIBIT A, pages 339 to 342]**.

ICIB detectives interviewed Witness [redacted], who had been a former owner of the pickup truck that had been in the [redacted] yard on August 25, 2014. Witness [redacted] was also the owner of an auto dealership. He stated his truck had been towed to [redacted]. He went to [redacted] to pick up his truck. Witness [redacted] noted the truck was missing the metal moldings from the doors, the weather stripping, and the hood stand bar. Witness [redacted] replaced the indicated items **[EXHIBIT A, page 327]**.

ICIB detectives interviewed the current owner of the indicated pickup truck, Witness [redacted]. He stated he purchased the truck on October 22, 2014, from Witness [redacted]'s auto dealership. ICIB investigators examined the truck and noted the jack was missing. Witness [redacted] had not noticed it was missing at the time of his purchase of the truck.

On September 2, 2014, Subject Guerrero worked on the Early Morning shift at Century Station with Witness Tran **[EXHIBIT K]**. Witness [redacted] utilized a recording device to record the following at 5 minutes and 30 seconds into the recording (0435 hours) **[EXHIBIT C]**: "That white truck, the one you took the parts off." Subject Guerrero responded, "Yeah?" Witness [redacted] stated, "They came the next day to pick it up." Subject Guerrero replied, "Oh, really?"

On January 22, 2015, ICIB investigators served a search warrant at Subject Guerrero's residence. They took several items from Subject Guerrero's 1998 Toyota pickup as evidence: The locking mechanism from the fuel door, two locks from inside the glovebox, an automobile jack, a hood prop stand, a lower window molding from the driver's door window, and a key to the fuel door lock. ICIB detectives attempted to interview Subject Guerrero at the time; however, he declined to participate in an interview.

In his IAB interview, Subject Guerrero denied that any of the items the ICIB detectives took off of his truck as evidence originated from vehicles he stored or impounded during his duties as a patrol deputy at Century Station. Subject Guerrero stated he purchased the window molding, automobile jack, and hood prop stand from Witness [redacted]. Subject Guerrero stated he pieced together the fuel door lock from parts that had been in the truck when he purchased it from [redacted].

Subject Guerrero denied he ever took any parts from vehicles he towed or stored, nor did he take any parts off of vehicles in the [redacted] yard **(refer to Subject Guerrero's first IAB interview transcript, page 16)**.

Witness [redacted] stated in his ICIB interview **[EXHIBIT A, pages 313 to 326]** he could not remember if he ever saw Subject Guerrero take parts off of vehicles in the [redacted] yard. He stated Subject Guerrero visited that tow yard once or twice per week and walked around the yard with Witness [redacted] or another tow truck driver. Subject Guerrero never told Witness [redacted] why they visited the [redacted] yard. Witness [redacted] always remained inside the patrol vehicle and wrote reports.

INVESTIGATION:

IAB investigators interviewed Subject Guerrero and Witness [redacted]. The interviews were digitally recorded and transcribed. For complete statements made, more information, and precise wording, see attached verbatim interview transcriptions.

IAB investigators telephoned Witness [redacted]'s attorney, Natalie Ghayoumy, who contacted Witness [redacted] and relayed IAB investigator's desire to interview him. After contacting Witness [redacted], Ms. Ghayoumy provided his response to IAB investigators, which was he would not participate in an IAB interview unless LASD were to assist him with gaining a United States Visa. Ms. Ghayoumy would not provide any details regarding Witness [redacted]s contact information. Nevertheless, IAB investigators sent a certified letter on May 10, 2017, to Witness [redacted]s last known address, requesting he participate in an interview. As of the submission of this case, he had not contacted IAB investigators.

ICIB investigators interviewed Witnesses [redacted], [redacted] and [redacted], which were audio recorded and transcribed. The ICIB interview of Witness [redacted] was audio recorded, but not transcribed. The ICIB interview of [redacted] was not audio recorded. For complete statements made, more information, and precise wording, see the verbatim interview transcriptions within the ICIB casebook **[EXHIBIT A]**. Also refer to the audio recorded ICIB interviews **[EXHIBIT C]**.



OFFICE OF THE SHERIFF



COUNTY OF LOS ANGELES

HALL OF JUSTICE

JIM MCDONNELL, SHERIFF

June 29, 2017

Deputy Tony Guerrero, #[redacted]

Dear Deputy Guerrero:

You are hereby notified that it is the intention of the Sheriff's Department to discharge you from your position of Deputy Sheriff, Item No. 2708A, with this Department, effective the close of business July 24, 2017.

An investigation under IAB File Number IV2413066, conducted by Internal Affairs Bureau, coupled with your own statements, have established the following:

1. That in violation of the Manual of Policy and Procedures Sections 3-01/030.05, General Behavior; and/or 3-01/000.13, Professional Conduct – Core Values; and/or 3-01/030.10, Obedience to Laws, Regulations, and Orders (as it pertains to Petty Theft, Penal Codes 484(a) and 490.2), on or about August 4, 2014, and August 25, 2014, while on-duty, on numerous occasions and without the owners' consent, you removed automobile parts from vehicles you legally stored during the performance of your duties. The Los Angeles County District Attorney filed two charges of Petty Theft, 484(a) PC and 490.2 PC, against you, which brought embarrassment upon yourself and/or the Los Angeles County Sheriff's Department.

2. That in violation of the Manual of Policy and Procedures Section 3-01/040.75, Dishonesty/Failure to

Make Statements, and/or Making False Statements During Departmental Internal Investigations, on or about February 10, 2017, you made false and/or misleading statements and/or failed to make full, complete and truthful statements to Internal Affairs Bureau investigators during your administrative interview, as evidenced by but not limited to:

a. when asked if you took any parts off that pickup on that shift, you replied, "No;" and/or,

b. when asked if you took anything at all off that truck or out of that truck on that shift, you replied, "No;" and/or,

c. when asked if you took a window molding or weather stripping off that truck, you replied, "No;" and/or,

d. when asked if you took a piece from the fuel door off that truck, you replied, "No;" and/or,

e. when asked if you ever took any parts off any vehicles from the International Towing, you replied, "No;" and/or,

f. when asked if you ever took parts off of vehicles you had towed on duty, you replied, "No;" and/or,

g. when asked if you took a hood prop of any vehicle at International Towing, you replied, "No;" and/or,

h. when asked if you ever took a jack stand or jack studs off a vehicle in a tow yard, you replied, "No."

3. That in violation of the Manual of Policy and Procedures Section 3-01/040.75, Dishonesty/Failure to Make Statements, and/or Making False Statements During Departmental Internal Investigations, on or about April 27, 2017, you made false and/or misleading statements and/or failed to make full, complete and truthful statements to Internal Affairs Bureau

investigators during you administrative interview, as evidenced by but not limited to:

a. on numerous occasions when the IA investigator played audio recordings, and asked about the recorded conversations between you and Witness [redacted] regarding the removal of parts, you stated you did not remember your responses, and/or the conversation, and/or, what they were referring to.

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet, which are incorporated herein by reference.

You may respond to the intended action orally or in writing. In the event that you choose to respond orally to these charges, you have already been scheduled to meet with Chief Joseph M. Gooden, on July 25, 2017, at 1300 hours, in his office, which is located at 211 W. Temple Street, Room 804 Los Angeles California 90012. If you are unable to appear at the scheduled time and wish to schedule some other time prior to July 24, 2017, for your oral response, please call Chief Gooden's secretary at ([redacted]) [redacted] for an appointment.

If you choose to respond in writing, please call Chief Gooden's secretary to cancel your scheduled appointment, and send your response to the facts contained in this letter to Chief Gooden's office no later than July 24, 2017.

Failure to respond to this Letter of Intent within fifteen (15) business days will be considered a waiver of your right to respond and will result in the imposition of the discipline indicated herein.

If you did not receive the investigative material on which your discipline is based at the time you were served with this correspondence, you may contact the Internal Affairs Bureau at (323) 890-5300, to obtain a copy of the case file.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

JIM McDONNELL, SHERIFF

Josie S. Woolum, Captain
Internal Affairs Bureau

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures.

JSW:JMG:jr

cc: Advocacy Unit
Employee Relations Unit
Joseph M. Gooden, Chief, Central Patrol Division
Internal Affairs Bureau
(File # IV2413066)



CIVIL SERVICE COMMISSION
COUNTY OF LOS ANGELES

January 27, 2022

FINAL COMMISSION ACTION

Subject of Hearing: *Petition of **TONY GUERRERO** for a hearing on his **suspension** not to exceed thirty (30) days following judgment of a criminal matter, effective September 25, 2015, and **discharge**, effective November 13, 2017, from the position of Deputy Sheriff, Sheriff's Department,* **Case No. 17-265**.

The Civil Service Commission, at its meeting held on December 15, 2021, approved findings in the above-entitled case. The department's objections were overruled.

Since a copy of these findings have already been provided to all the parties, we have enclosed a copy of the signed formal order of the Commission for your records.

Anyone desiring to seek review of this decision by the Superior Court may do so under Section 1085 or 1094.6 of the Code of Civil Procedure as appropriate. An action under Section 1094.6 can only be commenced within 90 days of the decision.

Craig M. Hoetger
Interim Executive Director

Enclosure

c: Tony Guerrero
Elizabeth Gibbons
Jennifer Palagi
Trudi Ferguson

BEFORE THE CIVIL SERVICE COMMISSION OF THE

COUNTY OF LOS ANGELES

In the matter of the ***suspension*** *not to exceed thirty (30) days following judgment of a criminal matter, effective September 25, 2015, and* ***discharge****, effective November 13, 2017, from the position of Deputy Sheriff, Sheriff's Department, of* **TONY GUERRERO** **(Case No. 17-265)**	ORDER OF THE CIVIL SERVICE COMMISSION

On December 15, 2021, the Civil Service Commission of the County of Los Angeles overruled the department's objections and adopted as its final decision to impose a fifteen (15) day suspension.

Dated this 27th day of January, 2022.

JOHN DONNER, President

PERCY DURAN III, Member

NAOMI NIGHTINGALE, Member

HEIDI SEGAL, Member

DICKRAN TEVRIZIAN, Member

Tony Guerrero Case No. 17-265

REVISED CONCLUSIONS OF LAW

1. The Department has met its burden of proving that the allegations contained in the letter of November 13, 2017 are true.

2. The Department has not met its burden of proving that Appellant's discharge was appropriate. The appropriate level of discipline is a 15-day suspension.

3. The Department has met its burden of proving that the 18.01 non-disciplinary suspension was appropriate.

Rec'd 1/13/20

LOS ANGELES COUNTY CIVIL SERVICE COMMISSION

In the Matter of the Appeal of TONY GUERRERO Appellant And LOS ANGELES COUNTY SHERIFF'S DEPARTMENT Respondent	Case No. 17-265 PROPOSED FINDINGS OF, CONCLUSIONS OF LAW, AND RECOMMENDATION

APPEARANCES

For the Appellant: ELIZABETH GIBBONS
The Gibbons Firm, PC
8118 Wilshire Blvd. FL 17
Los Angeles, Ca 90017

For the Respondent: JENNIFER PALAGI
Liebert Cassidy Whitmore
6033 West Century Blvd. Suite 500
Los Angeles. Ca 90045

Hearing Officer: Trudi Ferguson

Hearing Dates: May 13, May 23 and May 24. June 3. June 7. 2018

ISSUES

1. Is there sufficient nexus between the criminal charges filed against Petitioner and the duties of Petitioner's position to support imposition for the non-disciplinary suspension of Appellant as set forth the by the Department in its letter dated September 25, 2015?
2. Did the Department have a valid interest at the time of the suspension to suspend the Petitioner due to the filing of the criminal charges?
3. Does the Petitioner have affirmative defenses regarding the appropriateness of the 18.01 non-disciplinary suspension?
4. Was the 18.01 suspension appropriate?
5. If not, what is the appropriate remedy?
6. Are the allegations contained in the Department's letter of November 13, 2017, true?
7. If any or all are true, is the discipline appropriate?

EXHIBITS

Department's Exhibits # 1-8 and Appellant's Exhibit #A-G.

(See attached list of Exhibits.)

INTRODUCTION

The Appellant, Tony Guerrero, was notified of his discharge by the Sheriff's Department on November 13, 2017, in a Letter of Discharge from his position of Deputy Sheriff, Sheriff's Department. The basis of the discharge involves allegations Appellant violated Department Manual of Policy and Procedures Sections 3-01/000.13, Professional Conduct – Core Values; and/or 3-01/030.10,

Obedience to Laws, Regulations and Orders (as it pertains to Petty Theft, Penal Codes 484 (a) and 490.2,) on or about August 4, 2014, and August 25, 2014, while on duty, on numerous occasions and without the owner's consent, Appellant removed automobile parts from vehicles he legally stored during the performance of his duties. The Los Angeles County District Attorney filed two charges of Petty Theft, 484 (a) PC and 490.2 PC, against Appellant, which brought embarrassment to Appellant and/or the LA County Sheriff's Department; also in violation of Manual of Policy and Procedures Sections Section 3-01/040.75, Dishonesty/Failure to Make Statements, and/or Making False Statements During Department Internal Investigations, on or about February 10, 2017, making false and/or misleading statements and/or failing to make full, complete and truthful statement to Internal Affairs Bureau investigators, during the administrative interview as evidenced by: denying he took any parts off that pickup or off the truck or out of that truck on that shift including window molding or weather stripping, a piece from the fuel door off that truck, denying he took any parts off any vehicles from International Towing, denying he took parts off of vehicles he towed on duty; denying he took a hood prop, jack stand, or jack studs off any vehicle in a tow yard or at International Towing.

Additionally Appellant is alleged to have violated the Manual of Policy and Procedures Section 3-01/040.75. Dishonesty/Failure to Make Statements,, and/or Making False Statements During Departmental Internal Investigations on or About April 27, 2017, making false and/or misleading statements and/or failing to make full,, complete and truthful statements to Internal Affairs Bureau investigators, during his administrative interview, as evidenced by but not limited to numerous occasions

when the IAB investigator played audio recordings, and asked about conversations between Appellant and a witness, [redacted] regarding the removal of parts, Appellant stated he did not take any parts off the pickup, off the truck, out of the truck, took a window molding or weather stripping off the truck, took a piece from the fuel door off the truck, took any parts off any vehicles from International Towing, took parts off of vehicles Appellant had towed on duty, took a hood prop of any vehicle at International Towing, took a jack stand or jack studs off a vehicle in a tow yard. Appellant stated he did not remember his responses, and/or the conversation, and/or what they were referring to.

Specifically the Department alleges: Inappropriate on/off-duty conduct (including criminal behavior involving job nexus;) Using official position or office for personal gain or advantage; Conviction of any crime which constitutes a job nexus to County Employment; Criminal or unbecoming conduct when such conduct is related to the employee's duties or Interest of the Department or County, or promoting such criminal or unbecoming conduct; Conviction of crimes (whether felony or misdemeanor or infraction) or unbecoming conduct that may include but not limited to illegal drugs, theft, inappropriate sexual behavior, crimes against persons or property; Failure to perform job duties which results in escapes or attempted escapes, Failure to perform job duties resulting in injuries to clients, staff, the public, volunteers, or members of partner agencies; Failure to follow established rules or regulations; Carelessness or inattention to duties resulting in improper service being rendered to clients, patients, public or resulting in impairment of County function; Asleep or inattentive while on duty in normal work periods; Failure to exercise sound

judgment which results in loss of, or injury, or damage to persons or property of the County or of County service.

The Department alleges Appellant on two separate occasions towed similar Toyota trucks and stole parts from the towed trucks to use on his newly purchased truck.

EVIDENCE

Appellant Deputy Sheriff, Tony Guerrero, began his employment as a Deputy Sheriff in January 1997. At the time of this alleged incident he was assigned as a Field Training Officer at Century Station where he had been a Training Officer for about 6 years. International Towing had contracts with Century Station for towing and storage services since 1999. Since 2014 Appellant was assigned to work this contract.

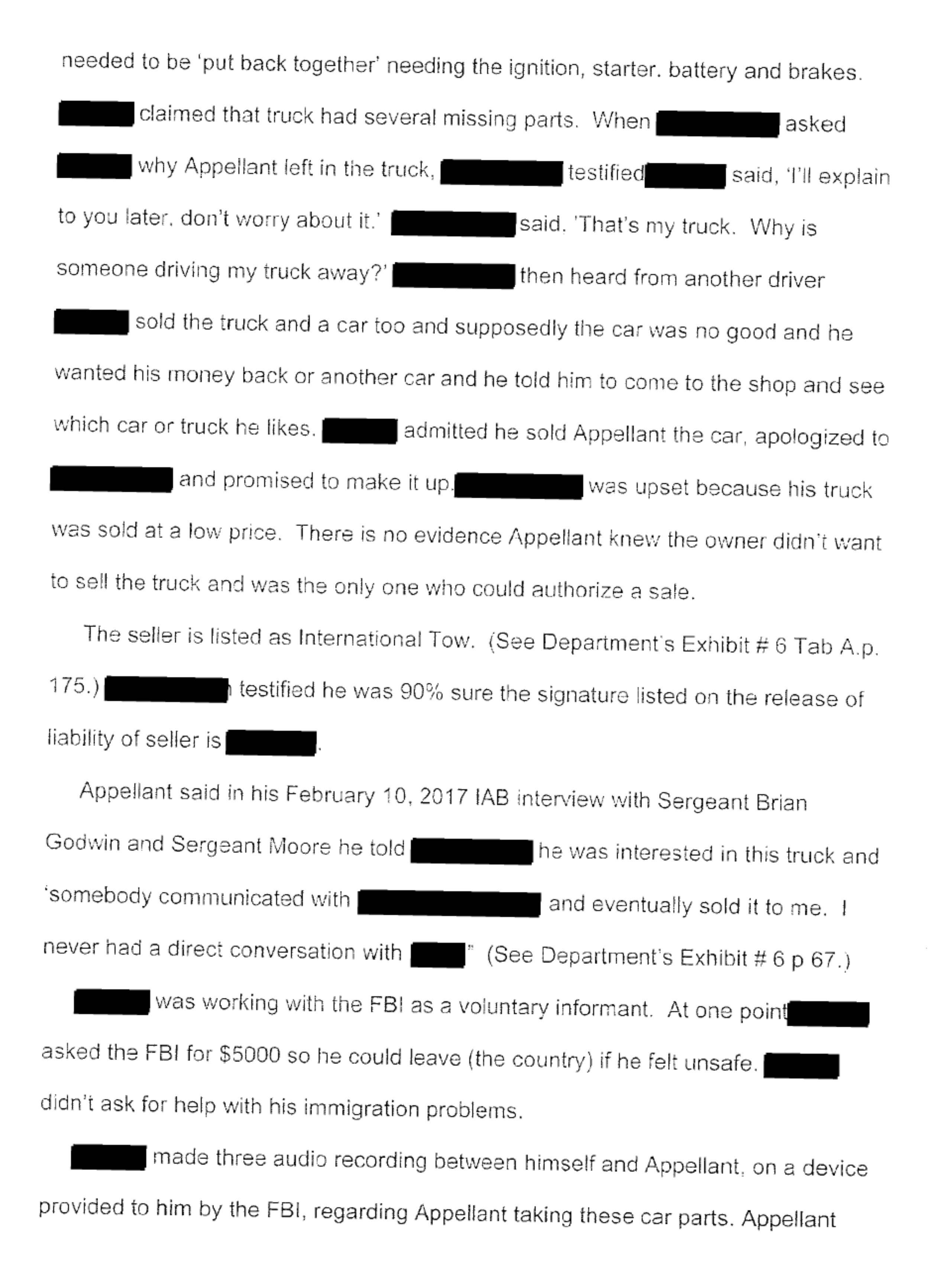
Appellant is an eighteen (18) year tenured Deputy Sheriff with no prior discipline, accused of stealing weather stripping. worth approximately $25.00 and other car parts including a car jack. jack studs, fuel door lock, hood prop, weather stripping, etc. Appellant argues the chief witness in this case, International Towing employee, and volunteer undercover FBI informant, [redacted] is a convicted felon and undocumented, and was motivated to lie to maintain his residence and citizenship.

[redacted] alleged Appellant took these various car parts from vehicles in the field and in the tow yard. At the times in question Appellant was accompanied by his trainee, Deputy [redacted]. [redacted] said he never saw Appellant put car parts in their patrol car or trunk or take any car parts from the tow yard. [redacted] stated he was busy writing reports and did not pay attention. [redacted] normally didn't get out of the car.

[redacted] stated in his I.A.B. interview he never saw Appellant come back to the car with car parts, nor store any type of equipment like stereos or speakers or anything of that nature, he never saw Appellant get into the towed or stored truck before Appellant got into their vehicle or at the end of the night when they were going to break the car down, [redacted] never saw any car parts or anything else in the trunk that he didn't put there. [redacted] stated they did have their 'war bags.") [redacted] went to the tow yard more with Appellant than another Deputy. (See Department's Exhibit # 6 A p. 203.)

The Appellant argues he was caught in an FBI clean up attempt gathering evidence against then L.A. County Sheriff Baca.

July 12, 2014, Appellant purchased a white 1998 Toyota pickup truck for $300, a 'junker,' missing serval parts, from [redacted], who worked for International Towing. The secretary at International Towing said [redacted] sought approval to sell the car from International Towing owner, [redacted]. But [redacted] testified [redacted] didn't have permission to sell any cars. [redacted]. in his interview statement, said he asked [redacted] since the Appellant was physically at the shop, did [redacted] want to talk to Appellant: [redacted] asked [redacted]: 'There's a Deputy out there and if [redacted] would want to go out there and say 'Hi' to him." [redacted] declined to meet with Appellant. The secretary and Appellant had seen [redacted] speaking with [redacted], and [redacted] then allegedly told Appellant the owner had given [redacted] permission to sell the white Toyota Truck to Appellant. [redacted] testified, about 5 or 10 minutes later he saw Appellant drive off with the truck License [redacted] Appellant described the truck as a 'junker' that



needed to be 'put back together' needing the ignition, starter. battery and brakes. [redacted] claimed that truck had several missing parts. When [redacted] asked [redacted] why Appellant left in the truck, [redacted] testified [redacted] said, 'I'll explain to you later. don't worry about it.' [redacted] said. 'That's my truck. Why is someone driving my truck away?' [redacted] then heard from another driver [redacted] sold the truck and a car too and supposedly the car was no good and he wanted his money back or another car and he told him to come to the shop and see which car or truck he likes. [redacted] admitted he sold Appellant the car, apologized to [redacted] and promised to make it up. [redacted] was upset because his truck was sold at a low price. There is no evidence Appellant knew the owner didn't want to sell the truck and was the only one who could authorize a sale.

The seller is listed as International Tow. (See Department's Exhibit # 6 Tab A.p. 175.) [redacted] testified he was 90% sure the signature listed on the release of liability of seller is [redacted].

Appellant said in his February 10, 2017 IAB interview with Sergeant Brian Godwin and Sergeant Moore he told [redacted] he was interested in this truck and 'somebody communicated with [redacted] and eventually sold it to me. I never had a direct conversation with [redacted]" (See Department's Exhibit # 6 p 67.)

[redacted] was working with the FBI as a voluntary informant. At one point [redacted] asked the FBI for $5000 so he could leave (the country) if he felt unsafe. [redacted] didn't ask for help with his immigration problems.

[redacted] made three audio recording between himself and Appellant, on a device provided to him by the FBI, regarding Appellant taking these car parts. Appellant

admitted to recognizing and identifying his own voice on these recordings but alleged he couldn't legitimately remember the conversations occurring three years ago. In these audio recording [redacted] states Appellant was stealing car parts. Appellant denied he stole any car parts or lied.

The first recording was made on August 4, 2014, a call between [redacted] and Appellant. The August 4, 2014 Daily Work Sheet shows Appellant and [redacted] stored a blue 1995 Toyota pickup truck License # [redacted], registered to [redacted] at about 0245 and 308 hours and wrote the CHP -180 report. (See Department's Exhibit # 6 Tab # E and # F.)) The blue Toyota was parked on a street with an expired registration over six months. (There is some confusion about cars and colors. In a second interview on January 20, 2015, [redacted] referred to this car as a white Toyota Tacoma.) (See Department's Exhibit # 6 Tab A p. 95.) [redacted] was called to the scene to tow the truck to International Towing. [redacted] said in his interview of December 11, 2014 with FBI Agent [redacted] and Sergeant /Investigator [redacted] that when he got to the scene, Appellant was taking off the weather stripping, and put it back on the same truck [redacted] was towing. (See Department's Exhibit # 6 Tab A p. 67.) Appellant also took the jack and put it in his patrol car (while in the field) and he went through the truck and took a bunch of little stuff out of it. He also took the lock to the gas tank from another impounded car. [redacted] spoke to the recorder saying Appellant took these parts and was going to the yard and pick these parts up later and see what else he was going to take. (See Department's Exhibit # 6 Tab A p. 66.) The recording [redacted] made of this date records Appellant saying: 'It's the window molding I was missing. No all I need is the other side of this.' [redacted]

asked 'are you gonna pass by' and Appellant responded 'yeah' he needed the other side.' (See Department's Exhibit #6 Tab A p. 8. And p. 132.) Appellant listened to this recording and identified his voice but didn't remember the conversation, or saying 'It's the window molding I was missing', or 'all I need is the other side of this.' Appellant stated he didn't take any parts off the car or truck.

[redacted], owner of this 1995 blue Toyota truck. (See Department's Exhibit # 6 Tab A p. 179 photo of the truck) testified his car was parked on the street for about a week. [redacted] said he went by his car parked on the street nearly every day but might have missed a day. He had paid for the license but not the smog. When he went to get his car, it had been towed. When he picked up the truck from the tow yard, the lock from the gas tank was removed and the gasket to seal the doors. The lock and gasket were there when the car was parked. He didn't note any other missing parts but when ICIB investigators inspected [redacted] truck they noted the driver's door window molding and locking mechanism for the fuel door were missing. [redacted] testified that was also missing. (See Department's Exhibit #A Tab A.) [redacted] complained to an employee in the tow yard regarding the missing parts e.g. lock but didn't file a complaint or talk to the owner. There is no record of blue truck complaint of missing part. [redacted] couldn't remember the name of the person at the tow yard to whom he complained.

[redacted] made a second recording on August 5, 2014, in which Appellant asks 'did you get that bar....the hood bar' and acknowledges his voice saying the trim is not going to fit, it's a different year so a little bit different. [redacted] replies 'Oh, okay, is it a hood bar? Appellant is heard saying, 'yeah I need that because my shit don't

have it dude.' [redacted] says just stop by the yard later and Appellant says: 'it's pretty hard to get off, the key, the locking mechanism for my gas tank, can you re-key it?' And something about 'it's the one we took from the truck.' [redacted] told him he got the hood stand from a junk or stock pile at International Towing. Again, Appellant acknowledges his voice on the tape but doesn't remember the conversation. (See Appellant's Exhibit # 6 Tab p. 8.)

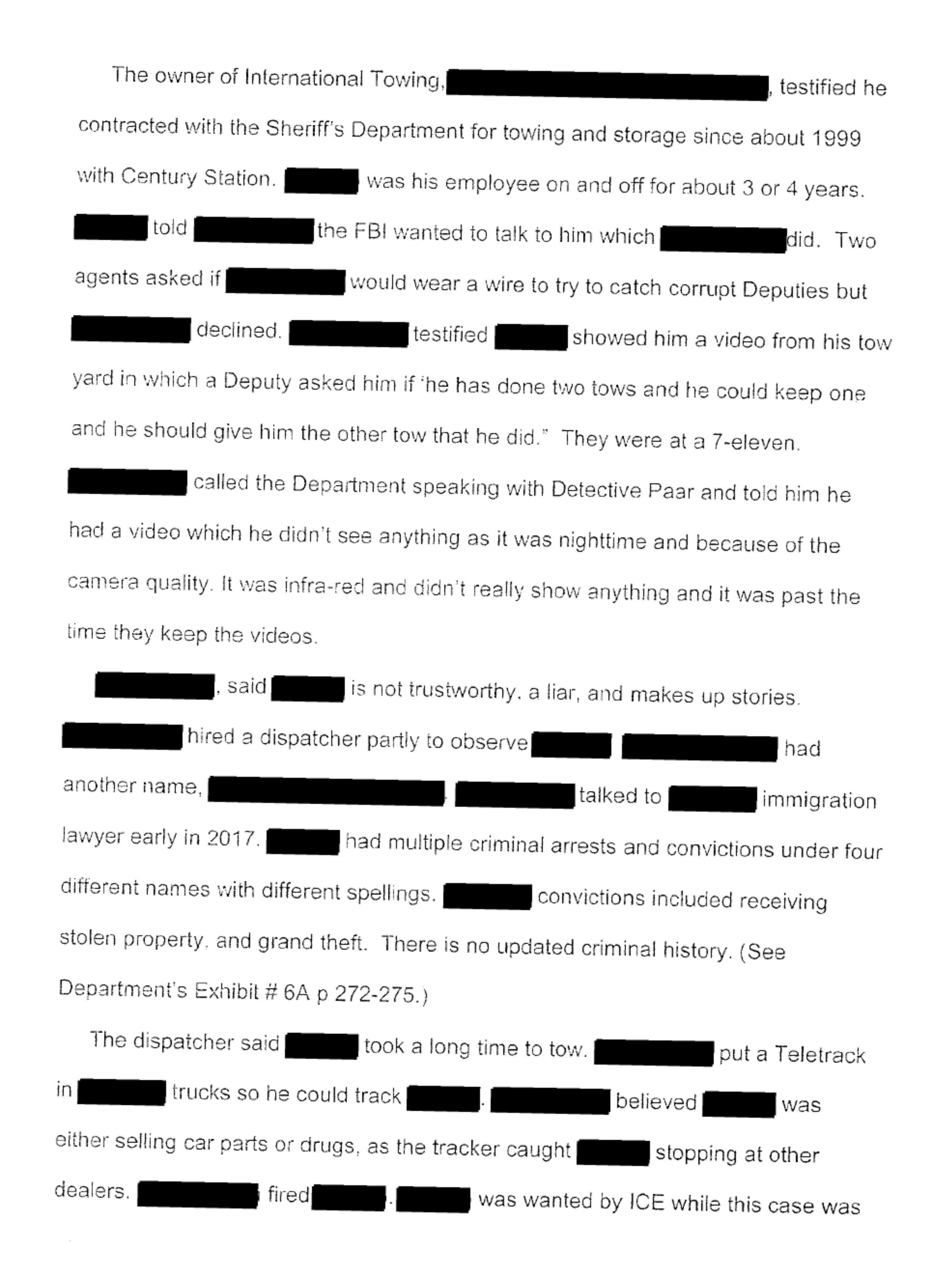
Appellant told I.A.B. interviewers, Sergeant Brian Godwin and Sergeant David Moore, he didn't take any parts off the cars. He said he sometimes went to International Tow yard to drop off paperwork and purchase auto parts from [redacted], who told Appellant he got them from a junk or metal scrap pile at International Tow yard. Appellant said he paid cash for them. [redacted] sold him the molding from the driver's side of the window of a Toyota pickup truck but Appellant couldn't remember how much he paid for it nor did he get a receipt. Appellant said he got an automobile jack which [redacted] said came from a scrap/junk pile in the tow yard for which he paid $5 or $10. Appellant said it was for a 'legit' purchase but he didn't know if [redacted] even mentioned it to the owner. Appellant said he made or rekeyed a lock mechanism from the fuel door which was in the truck when he purchased it. Appellant said there were sections at International Towing where they dismantle cars and keep parts. They take items out of the cars and just junk pile them and those are the items they sell.

August 25,2014. Appellant and [redacted] worked the Early Morning shift stopping at International Towing from 0437 hours to 0453 hours as confirmed by a GPS tracking device which shows Appellant's vehicle at International towing at the time of the

recording. (See Department's Exhibit # 6 Tab A p. 135-137.) (See Department's Exhibit #6A p 221-224.) [redacted] recorded he saw Appellant at the yard taking parts off a white Toyota 2001 Tacoma, NV License [redacted]. [redacted] also recorded this conversation in which we hear Appellant say, 'This is a clean truck, you know. It's out of state so they might not even come for it.' [redacted] says: ...'You forgot the hood thing.' Appellant replied, 'Let's see if we can take it off?' [redacted] asked, 'What's that called a hood stand, or what the fuck.' Allegedly Appellant said 'Yeah.' "It's like 40 dollars for this fucking thing.' Then [redacted] said Appellant took the jack stand, and jack studs, hood stand, and right door molding off the Toyota they had previously recovered.

IAB investigators interviewed the owner of the Tacoma truck, Mr. [redacted], who said he bought the truck at an auction and had sent the car to the local body shop. The body shop parked the car on the street and it was towed to International Towing. He didn't notice any parts missing when he bought the truck but when he went to pick it up at International Towing, he saw the metal door molding, weather stripping, and the hood stand bar were missing. [redacted] had receipts for the parts he subsequently had to replace.

September 2, 2014 [redacted] recorded a short conversation in which he was talking to Appellant about vehicles in the yard, looking for a Toyota he had previously towed and [redacted] said, 'That white truck, the one you took the parts off;.....and Appellant replied 'Yeah.' [redacted] said, 'they came the next day to pick it up' and Appellant responded 'Oh, really,' (See Department's Exhibit # 6 Tab A p.10



The owner of International Towing, [redacted], testified he contracted with the Sheriff's Department for towing and storage since about 1999 with Century Station. [redacted] was his employee on and off for about 3 or 4 years. [redacted] told [redacted] the FBI wanted to talk to him which [redacted] did. Two agents asked if [redacted] would wear a wire to try to catch corrupt Deputies but [redacted] declined. [redacted] testified [redacted] showed him a video from his tow yard in which a Deputy asked him if "he has done two tows and he could keep one and he should give him the other tow that he did." They were at a 7-eleven. [redacted] called the Department speaking with Detective Paar and told him he had a video which he didn't see anything as it was nighttime and because of the camera quality. It was infra-red and didn't really show anything and it was past the time they keep the videos.

[redacted], said [redacted] is not trustworthy, a liar, and makes up stories. [redacted] hired a dispatcher partly to observe [redacted] [redacted] had another name, [redacted]. [redacted] talked to [redacted] immigration lawyer early in 2017. [redacted] had multiple criminal arrests and convictions under four different names with different spellings. [redacted] convictions included receiving stolen property, and grand theft. There is no updated criminal history. (See Department's Exhibit # 6A p 272-275.)

The dispatcher said [redacted] took a long time to tow. [redacted] put a Teletrack in [redacted] trucks so he could track [redacted]. [redacted] believed [redacted] was either selling car parts or drugs, as the tracker caught [redacted] stopping at other dealers. [redacted] fired [redacted]. [redacted] was wanted by ICE while this case was

pending. [redacted] said Appellant blackmailed [redacted] to give him a car or he wouldn't give [redacted] tow business. [redacted] also testified he didn't have spare parts or junk parts piles at the yard to sell nor allow employees to sell scrapped auto parts to Deputies nor did he give employees permission to sell cars that were on the lot. Parts usually came from chop houses and were kept as evidence until they were cleared and sold to a scrap yard. [redacted] was not authorized to sell scrap parts. [redacted] said no one was authorized to sell parts or sell vehicles. (I.A.B interview with another witness, [redacted], stated there was not a junk or scrap pile at International Towing.) There were cars that were wrecked and were put to the side but then ultimately scrapped. They wouldn't get parts from the vehicles. There were no junk or scrap piles in the yard where people could just take parts.

[redacted] made allegations to Central Patrol Division alleging Appellant was taking money from towed vehicles or accepting cash from owners to avoid towing and impounding of their vehicles. (See Department's Exhibit 6 Tab A p. 270 December 9, 2014 memo on allegation of misconduct by Appellant (and one other) who were allegedly taking money from towed vehicles or accepting cash from owners to avoid towing and impounding of their vehicles.)

About December 2014, ICIB investigators Sergeant Amy Hanson and Sergeant Mike Austin investigated concerns there might be some improprieties by Deputies at the tow yard. Based on the findings of this ICIB investigation the case was handed over to the District Attorney who filed two misdemeanors counts against Appellant for petty Theft.

Sergeant Austin discovered [redacted] was working for the FBI. Around December 11, 2014, Austin, along with his partner, Sergeant Amy Hanson, interviewed [redacted] with FBI Investigator, [redacted] [redacted] told him on at least two occasions, Appellant possibly engaged in theft of parts of vehicles he towed or Appellant went to the tow yard and got parts. but added they should talk to the boss. [redacted] didn't know if they paid for the parts but that was between them and his boss. [redacted] brought up Appellant whom he said towed a similar vehicle to the one he had purchased, a Toyota pick-up from International Towing, and had removed parts either at the tow location or later at the yard. [redacted] alleged Appellant asked for a car from [redacted] because he had been towing because 'if you don't do what they say basically they stop towing with you.' (See Department's Exhibit # 6 Tab A p. 64.)

Austin testified there was a much bigger investigation going on involving Sheriff Baca and Under Sheriff Paul Tanaka. Austin felt [redacted] answers were curated and vetted by the FBI agent [redacted]. Austin testified he learned Castillo had other names, including [redacted], who had been deported previously under that name. [redacted] was in the U.S illegally facing deportation, and owed the IRS unpaid taxes which the FBI was working with him on. Proceedings against him to collect that money were halted by the FBI. The FBI paid [redacted] about $5,000 and terminated their contact with him. Subsequently [redacted] was arrested by ICE and deportation proceedings began.

On January 22, 2015 ICIB investigators served a search warrant at Appellant's house. The search warrant by ICIB found on Appellant a key, fuel door, lock from a

1998 Toyota license # [redacted], two locks removed from the glove box, and hood prop stand, jack, and weather stripping. (See receipt for property taken from Appellant's car in Department's Exhibit # 6 Tab A p. 235.) Appellant said some parts were given to him by [redacted] or bought or were in the bed of the truck be bought. Appellant had no receipts.

Appellant denied any items the ICIB took off his truck originated from stored or impounded vehicles, rather he purchased the window molding, jack, hood prop stand from [redacted] and pieced together the fuel door lock from parts given or bought from [redacted] or in the truck when he purchased it (See Department's Exhibit # 6 p. 79.)

August 3, 2015 LA county D.A filed two charges against Appellant for petty theft 484 (a) PC and 490.2 PC and making misleading statements denying he took the parts. Appellant was suspended according to 18.01 effective September 25, 2015 and continuing through September 20, 2016 after the filing of criminal misdemeanor charges and was unpaid for up to thirty (30) days beyond judgment of a criminal charge against him.

The criminal case was dropped August 30, 2016 or September 15, 2016. (See Department's Exhibit #6 B p. 8.)

December 2016 the Department's I. A. launched an investigation, led by Sergeant Brian Godwin. Sergeant Godwin ultimately submitted the findings to Chief Gooden after he completed the investigation. His Summary (See Department's Exhibit #6 p. 56 I.A. was given to Captain Josie Woolum for review.

On February 10, 2017 Appellant was interviewed by I.A Sergeant Godwin. Appellant denied he took any part off any pickup, or truck or out of the truck, or a piece from the fuel door off the truck, or any parts off any vehicles from International Towing or off vehicles he had towed on duty, or a hood prop of any vehicle at International Towing or a jack stand or jack studs off any vehicle.

Appellant said he took pieces of scrap metal given or bought from [redacted] and fashioned it into hood prop. It's not clear if the car Appellant bought had window molding removed from the car. Appellant said he purchased a jack, window molding, and hood prop from [redacted] and [redacted] was authorized to sell the parts.

Godwin testified Appellant told him he purchased a Toyota pickup from International Towing. There is a vehicle report filed by Appellant's partner, [redacted] for a 1995 Toyota pick-up owned by a [redacted] found on the public roadway with expired registration received by 'garage principal' [redacted] (See Department's Exhibit #1 Tab F.) for storage and holding for fees August 4, 2014. Godwin reviewed a tow yard video and never saw Appellant remove parts. (See Department's Exhibit #6 Tab A p. 200-201.)

April 27, 2017, Sergeant Godwin again interviewed Appellant playing him snippets of audio recordings of [redacted] and Appellant and offered to play the whole conversation, but Appellant declined. Appellant identified his own voice and that of [redacted] but denied he remembered the conversations and/or his responses, or what they were referring to. (See Department's Exhibit # 6 A p. 131 transcripts of these audio recordings of Appellant in which Appellant answers [redacted] question about something that is missing, by saying it's the window molding he was missing.)

Appellant told Godwin he didn't take any car parts specifically weather stripping, fuel door, lock, auto jack, and hood prop stand.

Sergeant Godwin testified Appellant's dishonesty is a disgrace to the Department. Deputy Sheriffs are held to a higher standard. Appellant violated the public trust and created harm to public service. The Department alleges his conduct is likely to reoccur as he didn't take responsibility. He is untrustworthy

[redacted] did not testify at the hearing or give statements made under oath. He gave three interviews to ICIB December 11, 2014, January 20 and 23, 2015.

Appellant did not testify at the hearing.

Josie Woolum, Sheriff Captain since 2017, testified Sergeant Brian Godwin was the I.A. Investigator on Appellant's case. Woolum reviewed the I.A. investigation with two Assistant Sheriffs, Under Sheriff, and Sheriff, and all agreed with Chief, Joseph Gooden. Chief for Central Patrol Division, to discharge Appellant. A review panel is warranted if the administrative investigation results in more discipline than fifteen (15) days. The panel considered mitigating factors noting Appellant had no prior discipline. The panel unanimously signed off on the recommended action of the discharge. Thus Gooden' s decision was reviewed by four commanders in the case review meeting. (See Department's Exhibit #3 dated June 27, 2017 Disposition Worksheet and Summary from Chief Gooden to Woolum.)

Woolum testified to Commendations Appellant received in 2003 (two commendations,) 2002, 1999, 1998. (See Appellant's Exhibit # F.) Appellant received Outstanding Performance Evaluations from December 2009 to December 2014, Very Good from 2003 to 2009, and Competent from 2001 to 2002 and Exhibit # G))

Appellant argues the Department violated 18.01 based solely on the filing of a misdemeanor criminal charge against Appellant, in violation of Section 5.04.240 (a) (q) of Los Angeles County Employee Relations Ordinance. Criminal charges found Appellant not guilty August 30, 2016. (See Department's Exhibit # 6 B p. 8) Appellant had been suspended without pay from September 25. 2015 to September 20, 2016.

The policy at the time according to 18.01 was criminal filing is grounds for 18.01 unpaid suspension. Practice was only felonies resulted in unpaid suspensions. 18.01 remains in effect until end of the outcome of the criminal case. Whether to impose the 18.01 rule is at the discretion of the employee's Division Chief. Once the court case is done the Department has 30 days to complete the Administrative Investigation. The Division Chief decides when the employee's pay is reinstated once the Division Chief is notified the charges are dropped or the trial is over or not guiltily.

Woolum was aware ALADS filed an Unfair Labor Practice charge against the Department contending the Guidelines for Discipline imposed in 2017 were unlawful because they were imposed without negotiating with ALADS. She was not aware the 2013 Guidelines were found to be illegally imposed by the Department. Sheriff Villanueva informed Department employees his intention to comply with ERCOM order, requiring the Sheriff to reverse or review all discipline imposed under the 2013 and 2017 Guidelines, which were found to be unlawful.

The Appellant introduced evidence regarding the status of the ALADS's Unfair Labor Practice charge based on the unilateral imposition of the Guidelines for Discipline (See Department's Exhibit #8.) Both the ERCOM Hearing Officer backed

by the full Employee Relations Commission found the Department unlawfully implemented a unilateral change in practice. (See Appellant's Exhibit # B)

The Hearing Officer's report was adopted except as to issues of penalty which is still being resolved. But the findings the Guidelines were unlawfully adopted was decided by ERCOM November 26, 2018. There's still litigation before EROCM about the remedy. The first part of the remedy is a cease and desist order, The Department agreed to abide by the cease and desist order to stop relying on the unlawful Guidelines and revert to the 2012 guidelines. Which Deputies are covered and entitled to back pay or reevaluation of their discipline is the only thing still pending before ERCOM.

The Department contends Appellant was properly suspended according to 18.01 effective September 25, 2015 and continuing through September 20, 2016 (unpaid) after the filing of criminal misdemeanor charges. (See Department's Exhibit #1 dated September 2, 2015 and Department's Exhibit #2 dated September 25, 2015 which suspended Appellant without pay for up to thirty (30) days beyond judgment of a criminal charge against him.)

ERCOM Hearing Officer's Report issued August 14, 2017 recommends all members of Bargaining Unit 611 who have been suspended without pay 'under this unilaterally implemented policy inconsistent with past practice when it began suspending Deputy Sheriffs without pay, pursuant to Rule 19.01. when Deputies were charged with misdemeanor rather than felony. shall be made whole as to lost wages and benefits. (See Appellant's Exhibit #A.) ERCOM issued a sustaining Decision and Order February 26, 2018. (See Appellant's Exhibit #B.)

February 26, 2018 ERCOM ordered the Department to make whole as to lost wages and benefits all members of Bargaining Unit 611 who were suspended without pay under the unilaterally implemented policy. The Department did not file an appeal. (See Appellant's Exhibit # B p. 3.) Thus, there was an order that the Department reexamine Appellant's suspension.

January 17, 2019 Sheriff Alex Villanueva issued a Special Message citing ERCOM'S rules that changes to Department's Guidelines for Discipline in 2013 and 2017 were void, due to Department's failure to negotiate and the Department was ordered to revert to Guidelines in place as of 2012 until changes are negotiated with the unions. Villlanueva states the 2012 guidelines provided for suspension as an option for discipline rather than termination in certain matters. As a result, cases must be reviewed and in some cases the discipline determinations revised. Villanueva states there are current reviews being conducted of previously imposed discipline administered by a panel of executives who are evaluating the totality of the changes, the imposed discipline, the performance record of the employees, and all details of each investigation. The reviews are based on case law and the standards outlined in the 2012 Guidelines for Discipline. The Department is currently reviewing previous cases where discipline was imposed during the identified timeframe.

There is no final determination at this time.

DISCUSSION

The Civil Service Commission is not bound by ERCOM findings which are not final at this time. Thus, Appellant's non-disciplinary suspension set forth in Department's letter of September 25, 2015 is appropriate and should be upheld.

Appellant argues his discipline is based on the uncorroborated hearsay statements of [redacted], an untrustworthy FBI informant, who used multiple names, is a convicted criminal, undocumented worker, pursued by IRS for unpaid back taxes, and had his own motives to be untruthful, all of which makes his statements insufficient to support a finding of fact or to prove the allegations set forth in the letter of discharge by a preponderance of evidence. He has no credibility.

Additionally, the Department erroneously relied on unintelligible unverified audio recording made by this same individual.

Appellant argues the only evidence to support the Department allegations are based on the hearsay statements by a disreputable [redacted] who claims to have observed Appellant remove car parts from trucks towed. [redacted] statements are unsupported as evidenced, challenged by contrary statements from Appellant's partner, Deputy [redacted] that he did not see Appellant take car parts, the lack of clear audio or video, and lack of any other corroborating witnesses or evidence. Thus, the subsequent allegations against Appellant, that he lied in the IAB interviews, in denying the allegations of theft are also unproven.

Appellant argues Civil Service Rule 4.10 (B) states: Hearsay evidence may be admitted for any purpose, but shall not be sufficient to support a finding unless it would be admissible over objection in civil actions. Additionally, Appellant argues [redacted] had a personal incentive to lie as he was working as an FBI informant benefited by producing evidence of criminal behavior by a Deputy Sheriff which could potentially be used in the FBI's then active attempt to obtain evidence of criminal misconduct by the Undersheriff Paul Tanaka and Sheriff Baca.

[redacted] did not testify at the hearing, nor did Appellant. Appellant alleges [redacted] lied to [redacted], the tow company owner, Appellant, and the secretary about [redacted] endorsing the sale of the white Toyota truck. [redacted] is the only witness that says Appellant took parts from vehicles he towed and impounded.

While both truck owners, [redacted] and [redacted] testified parts were removed from their Toyota trucks after the vehicles were towed to International Towing in 2014, they did not identify who took the parts off their vehicles. They also cannot prove with certainty that parts were not missing when the vehicle was towed. [redacted] testified while he visited his truck parked on the street, he might have missed a day.

Appellant argues it is more plausible [redacted] himself removed the items, weather stripping, window molding jack, hood prop, and locking mechanism from the white Toyota pick-up before he sold the truck to Appellant. Then [redacted] subsequently sold Appellant those parts that had been removed.

Appellant argues the filing of a criminal charge against him does not constitute a Department violation and the Department did not meet its burden of proof that having misdemeanor charges filed against him caused embarrassment to the Department or violated the General Behavior, Professional Conduct-Core Values, 'and or' Obedience to Laws. The District Attorney dismissed the two-misdemeanor charges filed against Appellant on August 30, 2016 and Appellant was restored to salary about September 20, 2016.

The Appellant argues the final binding decision by ERCOM resulted in an order that the Department make Appellant whole for all lost wages and benefits resulting from the one year 18.01 suspension.

Appellant alleges he was caught up in the effort by the FBI and cooperation of the Sheriff's Department to entrap Sheriff Baca and Undersheriff Tanaka and that Sheriff McConnell personally pushed the investigations of Appellant signing off on Appellant's discharge even after the discrediting of the main witness, [redacted]. Appellant points suspiciously to lack of appearance at the hearing of Sheriff McDonnell and/or his subordinates to support the justification of Appellant's termination.

The Department argues Appellant engaged in behavior violating Department policies that results in discredit to him and the Department, brought harm to the public service with the likelihood this conduct would reoccur, as Appellant at no point took responsibility for his actions.

Appellant, on August 4 and 25, 2014 towed two trucks like the truck Appellant recently purchased. The owners of the two trucks, independent witnesses with no motive to lie, each testified their trucks were towed to International Towing and had parts missing when they picked up their trucks from International Towing which had previously been on their trucks.

Appellant's own statements recorded by [redacted], and the fact a search warrant to Appellant's house found the exact parts allegedly missing from the trucks, led to the conclusion Appellant violated Department policies. Additionally, Appellant then

made false and misleading statements to investigations on two separate occasions by denying stealing car parts.

The Department cannot have an employee who is dishonest and acts criminally, making the decision to terminate reasonable.

The preponderance of evidence simply requires the trier of fact to believe the existence of a fact is more probable than its nonexistence. (In re Angelia P. 1981 28 Cal.3d 908, 918.) The Department argues the burden of proof can be determined from either a direct fact or evidence or through circumstantial evidence. Circumstantial evidence can prove a fact from which an inference can be drawn. An inference is a deduction of fact that may logically and reasonable be drawn from another fact or group of facts found or otherwise established in the action. (Evid. Code & 6000(b).

A Hearing Officer should not substitute their own judgment for that of the Department unless there is evidence of disparate discriminatory or unfounded reason exceeding the bounds of reason.

The direct evidence in this case is imperfect as we must rely on circumstantial evidence. There is no definitive proof Appellant knowingly stole parts off any vehicles and thus there is not definite confirmation with 100% certainty Appellant then lied about stealing parts. There is no direct sighting of Appellant stealing parts, no video or reliable eye witness, no certainty Appellant took parts off vehicles rather than buying them. It is possible Appellant mistakenly relied on misrepresentations from [redacted] that [redacted] had authority to sell the parts and or truck. The statements and audio recording provided by a convicted criminal who might have stolen car

parts himself and certainly might have misrepresented himself and his authority to Appellant are problematic.

However, we do have verifiable audio recordings, on devices provided by the reputable FBI, in which Appellant identifies and acknowledges his own voice and that of [redacted], in which he refers to missing parts and taking them off vehicles that were not his on at least two or possible three occasions. These same parts that were identified and previously specifically alleged as stolen were then found by search warrant at Appellant's residence. Appellant had no receipts for any of these questioned items. The credibility of the truck owners is not in question. [redacted] stated he did not have a spare/junk parts pile available to Deputies or employees which contradicts Appellant statements. This case was fully investigated by the Department and the discharge was endorsed by a full review committee of five including the top Department officer, the Sheriff.

Furthermore, a Deputy (Guerrero) who had worked with this Towing company for at least six years certainly should be familiar with care that must be taken with impounded vehicles and policies of the towing yard he has done business with during that time. Also, Deputies must be familiar with Department requirements for unquestionable behavior and judgement and mandate that they are held to higher standards.

The filing of criminal charges and absence of final determination was sufficient to trigger the 18.01 non-disciplinary suspension without pay.

Based on totality of the available evidence, the reasonable judgement and conclusions of a five-member panel from the Department and severity of the

Department's violations, I find the allegations support the discharge and the discharge appropriate.

FINDING OF FACTS

1. Appellant Deputy Tony Guerrero began his employment as a Deputy Sheriff in January 1997.
2. At the time of this alleged incident he was assigned as a Field Training Officer at Century Station where he had been a Training Officer for about 6 years.
3. International Towing had contracts with Century Station for towing and storage services since 1999. Since 2014 Appellant was assigned to work this contract.
4. July 12, 2014 Appellant purchased a 1998 Toyota pickup License #[redacted], from International Towing for $300, sold by International Towing employee/ tow driver, [redacted]. The truck had some missing parts.
5. This sale was not authorized or approved by International Tow owner, [redacted], and [redacted] did not have authority to make the sale.
6. [redacted] was an employee of International Towing, a convicted criminal, had several aliases, was wanted by ICE, owed back taxes, and was a voluntary informant for the FBI.
7. [redacted] had criminal bookings and convictions on file for receiving stolen property and grand theft.
8. The FBI outfitted [redacted] with an audio recorder and [redacted] recorded three or four conversations with Appellant, on August 4, 5, 25, and September 2, 2014, in which they discussed car parts Appellant needed or was taking.

9. Appellant took parts off at least two towed vehicles either in the field or the tow yard and may have purchased other parts from [redacted] who was not authorized to sell such parts.

10. On both August 4, and August 25, 2014 Appellant took some parts off two different trucks, one in the field being towed, and one towed to International Tow yard.

11. Appellant bought a hood stand from [redacted] for about $5 or $10.

12. The tow yard keeps a pile of spare or junk parts that typically come from chop shops, kept as evidence until released, and then sold to scrap dealers. [redacted] is not authorized to sell these parts nor are Deputies authorized to take these parts.

13. At the time of Castillo's August 4, 2014 recording, Deputy Daily Work Sheet show Appellant stored a 1995 pickup at International Towing. This car, owned by [redacted], was missing parts not previously missing, when it arrived at the tow yard, the locking mechanism for the fuel door, and driver's door window molding.

14. In the August 5, 2014 recording by [redacted] Appellant stated, 'It's the window molding I was missing, No all I need is the other side of this.' Appellant stated he needed the hood bar, 'Because my shit don't have it.'

15. August 25, 2014 GPS tracking places Appellant at the tow yard. [redacted] recording on this date shows Appellant said, 'let's see if we can take off the hood thing. It's like 40 f----- $.'

16. The owner of the 1995 truck, [redacted], picked up his truck which was missing weather stripping and a hood stand bar that had not been missing previously.

17. On September 2, 2014 Appellant is heard in [redacted] recording answer [redacted] statement, 'That white truck, the one you took the parts off,' saying, 'Yeah,' and acknowledged his own voice on the above recording but denied he ever stole or took car parts.

18. Appellant admitted he recognized his voice on [redacted] recordings but stated he did not remember the context or specifics of the conversations or his responses, and/or the conversations, and/or what they were referring to.

19. The ICIB got a search warrant for Appellant's residence January 22, 2015, they recovered various parts, a locking mechanism, hood prop stand, fuel door lock, weather stripping, and key on Appellant's truck. Appellant said these parts were given to him by [redacted] and some he bought or were in the bed of the truck he bought. Appellant didn't have receipts.

20. August 3, 2015 LA county D.A filed two charges against Appellant for petty theft 484 (a) PC and 490.2 PC and making misleading statements denying he took the parts.

21. Appellant was suspended (unpaid) according to 18.01 effective September 25, 2015 and continuing through September 20, 2016 after the filing of criminal misdemeanor charges and was unpaid for up to thirty (30) days beyond judgment of a criminal charge against him.

22. Appellant was found not guilty of the criminal charges August 30, 2016.

23. Neither [redacted] or Appellant testified at the hearing.

24. The Civil Service Commission has jurisdiction over each individual's Rule 18.01 suspensions. A suspension may be upheld by the Civil Service Commission as appropriate, but also be found to be in violation of the different criteria in the Employee Relations Ordinance.

25. In a February 26, 2018 Decision ERCOM ordered the Department to cease and desist from implementing the change of practice until it gives ALADS the opportunity to meet and confer over the suspension without pay of members of Bargaining Unit 611 who have been criminally charged with misdemeanors.

26. ERCOM ordered all members of Bargaining Unit 611 who have been suspended without pay under this unilaterally implemented policy shall be made whole as to lost wages and benefits.

27. The Department agreed to abide by the cease and desist order to stop relying on the unlawful Guidelines and revert to the 2012 guidelines. Which Deputies are covered and entitled to back pay or reevaluation of their discipline is the only thing still pending before ERCOM.

28. January 17. 2019 Sheriff Alex Sheriff Villanueva informed Department employees of his intention to comply with the ERCOM order, requiring the Sheriff to reverse or review all discipline imposed under the 2013 and 2017 Guidelines, which were found to be unlawful. The Department is currently reviewing previous cases where discipline was imposed during the identified timeframe.

29. The Civil Service is not bound by ERCOM findings and there is no final determination on the above matter.

30. There is sufficient nexus between the criminal charges filed against Petitioner and the duties of Petitioner's position to support imposition for the non-disciplinary suspension of Appellant as set forth by the Department in its letter dated September 25, 2015.

31. The Department had a valid interest at the time of the suspension to suspend the Petitioner due to the filing of the criminal charges.

32. The 18.01 suspension was appropriate.

33. Appellant violated Department Manual of Policy and Procedures Sections 3-01/000.13, Professional Conduct – Core Values; and/or 3-01/030.10, Obedience to Laws, Regulations and Orders (as it pertains to Petty Theft, Penal Codes 484 (a) and 490.2,) on or about August 4, 2014, and August 25, 2014, while on duty, on numerous occasions and without the owner's consent, Appellant removed automobile parts from vehicles he legally stored during the performance of his duties. The Los Angeles County District Attorney filed two charges of Petty Theft, 484 (a) PC and 490.2 PC, against Appellant, which brought embarrassment to Appellant and/or the LA County Sheriff's Department; also in violation of Manual of Policy and Procedures Sections Section 3-01/040.75, Dishonesty/Failure to Make Statements, and/or Making False Statements During Department Internal Investigations, on or about February 10, 2017, making false and/or misleading statements and/or failing to make full, complete and truthful statement to Internal Affairs Bureau

investigators, during the administrative interview as evidenced by: denying he took any parts off that pickup or off the truck or out of that truck on that shift including window molding or weather stripping, a piece from the fuel door off that truck, denying he took any parts off any vehicles from International Towing, denying he took parts off of vehicles he towed on duty; denying he took a hood prop, jack stand, or jack studs off any vehicle in a tow yard or at International Towing.

34. Appellant violated the Manual of Policy and Procedures Section 3-01/040.75, Dishonesty/Failure to Make Statements., and/or Making False Statements During Departmental Internal Investigations on or About April 27, 2017, making false and/or misleading statements and/or failing to make full,, complete and truthful statements to Internal Affairs Bureau investigators, during his administrative interview, as evidenced by but not limited to numerous occasions when the IAB investigator played audio recordings, and asked about conversations between Appellant and a witness, [redacted], regarding the removal of parts, Appellant stated he did not remember his responses, and/or the conversation, and/or what there were referring to.

CONCLUSIONS OF LAW

1. The Department has met its burden of proving that the allegations contained in the letter of November 13, 2017, are true.
2. The Department met its burden that the discharge of Appellant was appropriate.

3. The Department met its burden in proving that the 18.01 non-disciplinary suspension is appropriate.

RECOMMENDATIONS

The Department met its burden in providing that Appellant violated Department policies as alleged in the letter of discharge of November 13, 2017. Therefore, it is recommended that the Department be sustained in the discharge.

It is further recommended that Appellant's 18.01 non-disciplinary suspension be sustained as there is sufficient nexus between the criminal charges filed against the Petitioner and his Department duties. The Department had a valid interest at the time of the suspension to suspend the Petitioner due to filing of the criminal charges.

DATED: October 1,, 2019

Respectfully submitted,

Trudi Ferguson

Hearing Officer



OFFICE OF THE SHERIFF



COUNTY OF LOS ANGELES

HALL OF JUSTICE

ALEX VILLANUEVA, SHERIFF

March 23, 2022

Deputy Tony Guerrero, [redacted]

Dear Deputy Guerrero:

AMENDED LETTER OF IMPOSITION

On November 13, 2017, you were served with a Letter of Imposition under File Number 2413066, notifying you that you were discharged for your position of Deputy Sheriff, Item No. 2708A, with this Department, effective as of the close of business on November 13, 2017.

On December 15, 2021, the discipline was reduced pursuant to a final Civil Service Commission Decision. All Departmental records will reflect that you received a fifteen (15) day suspension. This fifteen (15) day suspension will be deemed served November 14, 2017, through November 28, 2017.

Pursuant to the Civil Service Commission's final decision and the investigation under IAB File Number 2413066, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of the Manual of Policy and Procedures Sections 3-01/030.05, General Behavior; and/or 3-01/000.13, Professional Conduct – Core Values; and/or 3-01/030.10, Obedience to Laws, Regulations, and Orders (as it pertains to Petty Theft, Penal Codes 484(a) and 490.2), on or about August 4, 2014, and August 25, 2014, while on-duty, on numerous occasions and without the owners' consent, you removed automobile parts from vehicles you legally stored during the performance of your duties. The Los Angeles County District Attorney filed two charges of Petty Theft, 484(a) PC and 490.2 PC, against you, which brought embarrassment upon yourself and/or the Los Angeles County Sheriff's Department.

2. That in violation of the Manual of Policy and Procedures Section 3-01/040.75, Dishonesty/Failure to Make Statements, and/or Making False Statements During Departmental Internal Investigations, on or about February 10, 2017, you made false and/or misleading statements and/or failed to make full, complete and truthful statements to Internal Affairs Bureau investigators, during your administrative interview, as evidenced by but not limited to:

    a. when asked if you took any parts off that pickup on that shift, you replied, "No;" and/or,
    b. when asked if you took anything at all off that truck or out of that truck on that shift, you replied, "No;" and/or,
    c. when asked if you took a window molding or weather stripping off that truck, you replied, "No;" and/or,
    d. when asked if you took a piece from the fuel door off that truck, you replied, "No;" and/or,
    e. when asked if you ever took any parts off any vehicles from International Towing, you replied, "No;" and/or,
    f. when asked if you ever took parts off vehicles you had towed on-duty, you replied, "No;" and/or,
    g. when asked if you took a hood prop off any vehicle at International Towing, you replied, "No;" and/or,
    h. when asked if you ever took a jack stand or jack studs off a vehicle in a tow yard, you replied, "No."

3. That in violation of the Manual of Policy and Procedures Section 3-01/040.75, Dishonesty/Failure to Make Statements, and/or Making False Statements During Departmental Internal Investigations, on or about April 27, 2017, you made false and/or misleading statements and/or failed to make full, complete and truthful statements to Internal Affairs Bureau investigators, during your administrative interview, as evidenced by but not limited to:

    a. on numerous occasions when the IAB investigator played audio recordings and asked about the recorded conversations between you and Witness [redacted] regarding the removal of parts, you stated you did not remember your responses, and/or the conversation, and/or, what they were referring to.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

ALEX VILLANUEVA, SHERIFF

Ron Kopperud, Captain
Internal Affairs Bureau

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures.

RK:CK:eq

c: Advocacy Unit
Employee Relations Unit
Personnel Administration Bureau
April Tardy, Chief, Central Patrol Division
Century Station/Unit Personnel File
Cathy Banuelos, Pay, Leaves & Records Unit
Internal Affairs Bureau (File No. 2413066)